

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE
FEDERALISM, MANDATES AND
FISCAL RESPONSIBILITY COMMITTEE

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LEGISLATIVE RESEARCH INTERN

DATE: February 12, 2016

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SUBJECT: Strike everything amendment to S.B. 1432, relating to temporary conservation easement; taxation

Purpose

Outlines provisions of temporary conservation easements and classifies temporary conservation easements as Class Four property.

Background

A temporary conservation easement is an agreement between a landowner and a conservation organization or government with the purpose of completing certain conservation objectives. The landowner's usage rights of the land are constrained in order to meet these objectives, but ownership of the designated area is maintained for both current and future landowners. The decision of a landowner to enter into this type of agreement is voluntary. Conservation easements are usually permanent, unless otherwise specified. The objectives of a conservation easement may involve:

- a) maintaining and improving water quality;
- b) fostering forest growth; and
- c) maintaining migration corridors.

A Class Two property refers to agricultural property, properties of non-profit organizations and vacant land (A.R.S. § 42-12002). The assessment ratio for a Class Two property is 16%. Class Four property refers to non-primary residential property as well as leased or rented residential property (A.R.S. § 42-12004). The assessment ratio for a Class Four property is 10%.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Specifies that conservation easements are unlimited in duration unless otherwise provided by statute.

2. Specifies that an instrument creating a *temporary conservation easement* must state the following:
 - a) that the easement is temporary;
 - b) the term of the easement, which must be at least 10 years in duration; and
 - c) the conditions under which the term may be renewed.
3. Classifies any real property burdened by a temporary conservation easement as Class Four property subject to taxation and assessment pursuant to the Class Four property statute.
4. Requires that the owner of a property that is subject to a temporary conservation easement submit a covenant to the county assessor that the use of the property will remain unchanged during the term and that the easement will renew at the end of the term.
5. Requires the county assessor to take the following actions if the assessor has reason to believe the affected property is not being used in a manner consistent with temporary conservation easements or if the easement has expired without renewal:
 - a) notify the owner and request a response in regards to whether the property is still burdened by the temporary conservation easement;
 - b) if the owner does not respond within 30 days, issue a final notice within another 30 days requesting the proper information;
 - c) if the owner fails to respond to the final notice within 15 days, the assessor shall reclassify the property as a Class Two property unless another classification is warranted; and
 - i. the owner may appeal this action, and have Class Four classification reinstated if the owner proves that the property is still burdened by the temporary conservation easement.
 - d) if the property is reclassified as a Class Two property, a civil penalty of one-half the amount of ad valorem property taxes shall be assessed by all taxing jurisdictions;
 - i. the amount of the civil penalty shall include the final one-half, but not exceeding 10 of the last taxable years since the temporary conservation easement was created, or renewed, whichever is later.
 - ii. the penalty shall not be assessed if ownership of the property has changed after notification.
 - iii. the owner of the property shall pay the penalty within 30 days after notice, or may appeal the penalty within the same amount of time.
 - iv. unless the penalty is waived, it constitutes a lien against the property.
 - v. all revenue collected by the penalty shall be distributed to all taxing jurisdictions proportionately to tax rates applied by each jurisdiction.
6. Requires that after December 31, 2016, the creator, seller or assigner of real property burdened by a temporary conservation easement shall file a notice of the action with the county assessor of each county in which the conservation easement is located.

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7. Specifies that the provisions of this article apply to all interests relating to conservation easements created after August 7, 1985, except as provided in new statute.
8. Makes technical and conforming changes.
9. Becomes effective on general effective date.

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